

1 **WO**

2  
3  
4  
5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
8

9 United States of America, ) 08-6192M  
10 Plaintiff, )  
11 vs. ) **MENTAL EVALUATION**  
12 ) **AND TRANSPORTATION**  
13 Melquin Melendes-Canacas, ) **ORDER**  
14 Defendant. )  
\_\_\_\_\_ )

15 Pursuant to defense counsel's Motion to Determine Competency, docket # 17,  
16 reasonable cause exists that Defendant may be suffering from a mental disease or defect.  
17 Defense counsel requests Dr. Mark Walter, a clinical psychologist, be appointed to perform  
18 the evaluation. The Government's Response to Motion to Determine Competency etc. "has  
19 no objection to the motion to determine competency[.]" (docket # 21)  
20

21 The Government "opposes the appointment of Dr. Mark Walter," and requests  
22 the Court appoint Dr. John C. Hollebeek instead of Dr. Mark Walter to conduct Defendant's  
23 local evaluation. The Government offers no reason why the Court should not appoint Dr.  
24 Mark Walter.<sup>1</sup>

25 Good cause appearing,  
26 \_\_\_\_\_

27 <sup>1</sup> If Defendant is found to be legally incompetent by Dr. Mark Walter, the Bureau of  
28 Prisons will likely perform its own independent evaluation prior to initiating hospitalization  
and treatment to restore Defendant to competency.

1                   **IT IS ORDERED** that Defendant's Motion to Determine Competency, docket  
2 # 17, is **GRANTED** as Defendant may be presently suffering from a mental disease or defect  
3 rendering him incompetent to the extent that he is unable to understand the nature and  
4 consequences of the proceedings against him or to properly assist in his defense.

5                   **IT IS FURTHER ORDERED** appointing Mark Walter, Ph.D., 7220 N. 16<sup>th</sup>  
6 Street, Phoenix, Arizona 85014; telephone (602) 944-0480; fax (602) 944-1078 pursuant to  
7 18 U.S.C. § 4241 to conduct a psychiatric or psychological examination and evaluation on  
8 Defendant and prepare and file a written report with the Court under **seal**, all pursuant to the  
9 provisions of 18 U.S.C. § 4247.

10                   **IT IS FURTHER ORDERED** that pursuant to 18 U.S.C. § 4147(c), the  
11 subject report shall include, at least, the following:

- 12                   1. The Defendant's history and present symptoms;
- 13                   2. A description of the psychiatric, psychological and medical tests that were  
14 employed and their results;
- 15                   3. The examiner's findings;
- 16                   4. The examiner's opinions as to diagnosis, prognosis, and whether the person  
17 is suffering from mental disease or defect rendering him mentally incompetent to the extent  
18 that he is unable to understand the nature and consequences of the proceedings against him  
19 or to properly assist in his defense; and
- 20                   5. Whether Defendant is a danger to himself or the community if he were  
21 released from custody.

22                   **IT IS FURTHER ORDERED** that Mark Walter, Ph.D. shall complete his  
23 written report within a reasonable period of time, but not to exceed **forty-five (45) days** from  
24 the date of this Order, and shall file **under seal** the original with the Court, providing  
25 complete copies to counsel for the Government and defense counsel, and faxing a copy to  
26 the undersigned's chambers at (602) 322-7629. Pursuant to 18 U.S.C. § 4147(b), Dr. Walter  
27 may apply for one reasonable extension in writing upon a showing of good cause that  
28

1 additional time is necessary to observe and evaluate the Defendant, but any extension shall  
2 not exceed **thirty (30) days**.

3 **IT IS FURTHER ORDERED** that either Mark Walter, Ph.D. or defense  
4 counsel shall make arrangements to conduct the Defendant's interview at the Sandra Day  
5 O'Connor U.S. Courthouse in Phoenix by calling the United States Marshals Service at (602)  
6 382-8752.

7 **IT IS FURTHER ORDERED** authorizing Mark Walter, Ph.D. to expend not  
8 more than \$200.00 per hour, **not to exceed \$2,000.00**, for the total time for testing,  
9 examination, evaluation and preparation of his written report. Dr. Walter shall submit his  
10 bill for this evaluation and report directly to the Department of Justice, c/o United States  
11 Attorney, Two Renaissance Square, 40 North Central Avenue, Suite 1200, Phoenix, AZ  
12 85004-4408.

13 **IT IS FURTHER ORDERED** setting this matter for Status Hearing Re:  
14 Mental Competency before the undersigned on **Monday, October 6, 2008, at 1:30 p.m.**,  
15 Courtroom 302, Sandra Day O'Connor U.S. Courthouse, 401 West Washington Street,  
16 Phoenix, Arizona, 85003-2120.

17 **IT IS FURTHER ORDERED** that, in computing the time within which the  
18 trial must commence, the delay resulting from compliance with this Order shall be excluded  
19 pursuant to Title 18, United States Code, § 3161(h)(1)(A).

20 **IT IS FURTHER ORDERED** that excludable delay is found to commence on  
21 8/22/08 pursuant to 18 U.S.C. § 3161(h)(1)(A).

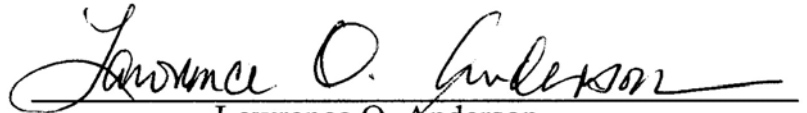
22 **IT IS FURTHER ORDERED** that the Clerk shall mail, email or otherwise  
23 deliver a copy of this Order on the United States Marshals Service, Dr. Mark Walter and  
24 counsel for the parties.

25 **IT IS FURTHER ORDERED** that the Government's Cross-motion for  
26 Continuance of Change of Pleas Hearing is **DENIED** as moot because Magistrate Judge  
27 Burns granted a request to continue the change of plea hearing on August 21, 2008. (docket  
28

# 15) The Government's request to appoint Dr. John C. Hollebeek to conduct Defendant's mental competency evaluation is **DENIED**.

Court staff shall fax a copy of this Order immediately to Dr. Mark Walter at (602) 944-1078.

Dated this 26th day of August, 2008.

  
Lawrence O. Anderson  
United States Magistrate Judge

cc: AUSA, Defense Counsel, Dr. Mark Walter, USMS